

**Appln No. 10/667,248**  
**Amdt date August 11, 2006**  
**Reply to Office action of February 23, 2006**

**REMARKS/ARGUMENTS**

The above-identified patent application has been amended and reconsideration and reexamination are hereby requested.

Claims 1 through 9 and 11 through 28 are now in the application. Claim 10 has been cancelled herein.

The Examiner noted that "claim 10 is withdrawn from consideration along with claims 1-9, 18-20, 23-24, and 26-27." However, the Office Action Summary as well as the rest of the Office action after the "Elections/Restrictions" section reflect that claim 1 has not been withdrawn. Applicant considers claim 1 not withdrawn from consideration, as is consistent with the Office action.

The Examiner objected to claims 1 and 23 due to certain informalities. Applicant has now addressed such informalities.

The Examiner rejected claims 1, 11-16, 22 and 25 under 35 U.S.C. 102(b) as being anticipated by Sohngen (U.S. 6,921,400), claims 1 and 22 under 35 U.S.C. 102(b) as being anticipated by Fujiwara (U.S. 6,406,477) and claims 17 and 21 under 35 U.S.C. 103(a) as being unpatentable over Sohngen in view of Stauch et al. (U.S. 6,416,516).

Applicant's claim 1 recites in relevant part (underlining added for emphasis): "A bone fixing system comprising a nail, . . . three transverse bores, and three screws, which can be guided through the transverse bores . . . wherein the spatial orientation and position imposed on a screw guided through one of the transverse bores is different for each of the three transverse bores."

Applicant's claim 25 recites in relevant part (underlining added for emphasis): "A bone fixation nail comprising: . . . three transverse bores, the transverse bores having an essentially circular cross-section. . . ."

In contrast to the transverse bores in Applicant's claim 1, slot 56 as described by Sohngen is not able to define an orientation and a position. Rather, an insert 50 is required to define orientation and position. The combination of the slot 56 with the insert 50 does not describe, teach or suggest transverse bores which define an orientation and a position for a corresponding

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screw. Additionally, Sohngen does not describe, teach or suggest three transverse bores, wherein the spatial orientation and position imposed on a screw guided through one of the transverse bores is different for each of the three transverse bores. With respect to Applicant's claim 25, Sohngen does not describe, teach or suggest three transverse bores having an essentially circular cross-section.

Fujiwara is directed to an intramedullary nail for the fixation of femoral neck fractures, the intramedullary nail having two screws which extend parallel to each other. As one of skill in the art will appreciate, when a plurality of screws are used for the fixation of femoral neck fractures, it is necessary to have the screws extend parallel to each other. As noted by Fujiwara, the auxiliary connector 36 and the bone connector (i.e, the lag screw 22) are arranged in parallel to form two fixed axles extending from the nail member 16 to the separated bone portion 20 to prevent the separated bone portion 20 from rotating about the lag screw 22. Col. 4, ll. 44-48. Thus, Fujiwara does not describe, teach or suggest three transverse bores, wherein the spatial orientation and position imposed on a screw guided through one of the transverse bores is different for each of the three transverse bores.

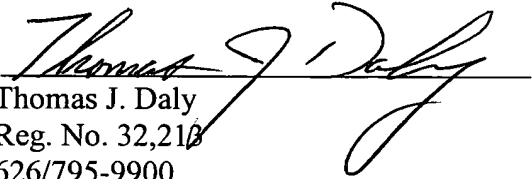
Accordingly, claims 1 and 25 are not anticipated by Sohngen or Fujiwara under 35 U.S.C. 102(b). Additionally, claims 11-17, 21, 22 and 28 depend from claim 1. As such, these claims are allowable at least based on claim 1.

As the Examiner noted in the Office action of October 6, 2005, "[u]pon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. 1.14. If claims are added after the election, applicant must indicate

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which are readable upon the elected species." As such, Applicant requests that claims 2-9, 17-20, 26 and 27 be reconsidered and allowed because these claims depend from generic claim 1. Additionally, new claim 28 is dependent on generic claim 1, and therefore Applicant requests that claim 28 also be considered and allowed.

Respectfully submitted,  
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